UNITED
NATIONS

E

Economic and Social Council

Distr.
GENERAL

E/1981/WG.1/SR.10
10 September 1981

ORIGINAL: ENGLISH

First regular session, 1981

SESSIONAL WORKING GROUP ON THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

SUMMARY RECORD OF THE 10th MEETING

Held at Headquarters, New York,
on Tuesday, 21 April 1981, at 10.30 a.m.

Chairman: Mr. JOHNSON (Ecuador)

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The meeting was called to order at 10.40 a.m.

CONSIDERATION OF REPORTS SUBMITTED IN ACCORDANCE WITH COUNCIL RESOLUTION 1988 (LX) BY STATES PARTIES TO THE COVENANT CONCERNING RIGHTS COVERED BY ARTICLES 10 TO 12 (continued)

Federal Republic of Germany (E/1980/6/Add.10)

1. At the invitation of the Chairman, Mr. Fenge (Federal Republic of Germany) took a place at the table.

2. Mr. FENGE (Federal Republic of Germany), introducing his country's report (E/1980/6/Add.10), said that the Federal Republic of Germany had a high regard for the rights set forth in articles 10 to 12 of the Covenant. Protection of the family was a constitutional guarantee given effect by a number of statutes and measures. The most important was the legislation on the equalization of family burdens which had been revised in January 1975 to provide the same child benefits for all families with the same number of children. Since the publication of the report, child benefits payable monthly had risen to 120 DM for the second child and 240 DM for the third and subsequent children. Other benefits included grants for continuing education, housing allowances varying with the applicant's needs, educational advisory systems for parents, assistance for those taking care of young children, and housing - especially for low-income and large families. Everything was done to provide children with ample opportunities for personal development, irrespective of their parents' financial means.

3. Family policy was not considered an instrument of population control: it was up to the individual parents to decide how many children they wanted. After some years of decline, the birth rate had begun to rise a little, and had stood at 10 births per 1,000 in 1980. The health of expectant mothers was monitored through regular medical attention.

4. The protection of children and young persons was one of the Government's central concerns. As early as 1922, the Youth Welfare Act had established the right of every child to physical well-being and physical and social development. The education of children was primarily the responsibility of parents, public support being designed to complement initiatives originating within the family. The Government had launched a reform of the education system designed to provide better guarantees of every child's right to education, and kindergarten places were currently available for 60 per cent of the children in the country between three and five years of age. Special legal provisions protected children against neglect and ill-treatment.

5. Those who could not earn their own living were supported by benefits payable through the social security system. Additionally, the social assistance scheme guaranteed a minimum level of benefits so that everyone in the country could live in dignity. Citizens and foreigners alike were entitled to claim social assistance benefits.

(Mr. Penge, Federal Republic of Germany)

6. The country contributed, through the European Economic Community, to world food production and helped to increase food supplies in developing countries.

7. The federal Government's health policy was aimed at protecting against illness and maintaining and improving health standards. The health authorities were working to reduce the infant mortality rate, with some success. In future more attention would be devoted to health, occupational safety, dangerous substances, drug and tobacco abuse and health worker training. Environmental protection and public hygiene were also covered by legislation, and a law had recently been adopted requiring inspection of new drugs to ascertain that they were not dangerous before they could be put on the market.

8. Mr. ABDUL-AZIZ (Libyan Arab Jamahiriya) asked whether the child benefits payable under the legislation on the equalization of family burdens were dependent upon family income, and whether he was correct in thinking that migrant workers and their families enjoyed the same rights as German families within the terms of that legislation.

9. Mrs. JIMENEZ BUTRAGUENO (Spain), commenting on the attention devoted to the housewife by federal social legislation, asked whether a portion of the family's assets were set aside for the housewife in the event of divorce or separation. She also asked whether the country paid a wage, as distinct from child benefits, to housewives who had no paid occupation.

10. At an OECD workshop on pension rights held in 1969, she had learned that the Federal Republic of Germany provided most generous pension benefits; in addition to receiving benefits commensurate with their previous earnings, pensioners were encouraged to continue working. Times had changed, however, since 1969: she wondered whether the Government still pursued a policy of encouraging pensioners to remain on the job.

11. Mr. SVERRE (Norway), after commending the report for its comprehensiveness, said that the description of the 1971 Environment Programme, on page 36 of the English text, seemed to imply that the authorities were developing legislation on individual areas of environmental protection. If that was so, he wondered whether all aspects of the problem had been covered by legislation.

12. The report also indicated (p. 43) that foreign workers were entitled to vote and be elected in work council elections. He wondered whether such rights were acquired as soon as they started work, or whether there was a qualification period.

13. Mr. MAYCOCK (Barbados) asked whether an informal fostering arrangement was sufficient under federal legislation to secure entitlement to child benefit payments, and whether any restrictions were imposed on the marriage of persons who, because of disability, were unable to support themselves.

14. Mr. SOPINSKY (Union of Soviet Socialist Republics) complimented the representative of the Federal Republic of Germany on an excellent report. He had noted from the introductory statement that child abuse was punishable by law, but the report seemed to imply that corporal punishment of children was permissible in the Federal Republic of Germany. He requested confirmation of that fact. He had also read reports of unemployment in the Federal Republic of Germany, and he wondered how it affected living standards for mothers and children.

15. As head of the Soviet press department for the past six years, he had been informed by correspondents that they were treated by the federal authorities like migrant workers, subject to special procedures such as a rather degrading half-yearly medical examination, which citizens of the Republic did not have to undergo. He concluded that migrant workers were not always covered by the same laws as citizens of the country, and wondered how that situation affected mothers and children. Finally, he asked how the families from the Soviet Union which had emigrated to the Federal Republic of Germany to be reunited with their relatives were faring, and whether they had become naturalized citizens.

16. Mr. SAMSON (International Labour Organisation) said that the Federal Republic of Germany had ratified a number of ILO conventions on maternity protection and the protection of children and young persons, and the ILO Committee of Experts on the Application of Conventions and Recommendations had considered the relevant legislation and practice within the framework of the ILO's own supervisional procedures. Although the Committee had not identified any matters on which further action or information appeared necessary, it had noted that the federal authorities had introduced a number of changes to existing laws in order to ensure the full application of the Minimum Age Convention, 1973.

17. Mr. FENGE (Federal Republic of Germany), replying to the questions raised, said that family income was not taken into account in establishing child benefits. Every adult, whether a citizen or a foreigner, with children in his or her charge was legally entitled to claim child benefits. Special arrangements were in force for pensioners and social insurance recipients who had children to look after, but the federal Child Benefit Act covered all children. A migrant worker legally resident in the country had the same right to child benefits and social assistance benefits as German citizens.

18. Replying to the Soviet representative's comments, he said that he was not aware of any regulations discriminating against migrant workers in the matter of medical check-ups; a first medical check was required when a person entered the Republic, to make sure that he or she was not carrying a dangerous disease, but thereafter no distinction was made between citizens and foreigners. Indeed, the report explicitly stated on page 43 that "neither labour law nor social security legislation discriminates in the relevant areas between German and foreigners".

19. Child abuse was increasingly being recognized as a problem, and the incidence of child abuse was high. A number of cases had been brought to court and resulted in convictions. The root causes of child abuse could usually be found in relations within the family, and the Government was therefore considering how to help ease family relations so that tensions between the parents were not taken out on the children.

(Mr. Fenge, Federal Republic of Germany)

20. The federal Government was grateful for the opportunities now available for families of German origin to be reunited. In some cases, the new immigrants from eastern countries had found that their new country of residence did not meet their expectations, but generally they had adapted well to living conditions in the Federal Republic.

21. With reference to a very important question from the representative of Spain, he explained that efforts to ensure the equality of the rights of spouses in marriage were aimed at preserving that equality not only for the period of the marriage but also after divorce or separation. In that connexion, he drew attention to the provisions concerning the "splitting of pensions rights" in the case of divorce (E/1980/6/Add.10, p. 13), which improved the position of the financially weaker spouse. In reply to the question concerning pensioners, he noted that although people on pensions were encouraged to remain active in local affairs and to pursue activities related to their former employment, they could not continue to work in the job from which they had retired.

22. Referring to the question from the representative of Norway concerning the Environment Programme (p. 36), he explained that although he was not an expert in that field, he assumed that the Programme was aimed at improving many different aspects of the environment, ranging from dangerous emissions to noise. Moreover, every factory was required to submit a safety report and to inform the appropriate supervisory authorities if accidents occurred. Since chemical products represented a particularly serious hazard, the Parliament had adopted the Chemical Substances Act (p. 38) and it was expected to enter into force in 1982.

23. With regard to the question asked by the representative of Norway concerning the right of immigrant workers to vote and to be elected in works council elections (p. 43), he said that to his knowledge exercise of that right was not conditional on period of residence. Replying to a further question from the representative of Norway, he pointed out that at the present time there were 4.5 million foreigners in the Federal Republic; 2 million were migrant workers and the remainder represented the families of such workers and other foreigners. With 1 million children of migrant workers under the age of 16, the Government's family policy was geared to ensuring their cultural and educational development and preparing them for future employment in the country. Some years ago, the flow of migrant workers from countries outside the European Economic Community had been halted because in the Government's view, the infrastructure had to be improved before they could be accommodated. However, the Federal Republic of Germany was mindful of its responsibilities towards refugees from other parts of the world and had accepted more than 100,000 people, requesting refugee status in 1980.

24. Replying to another question from the representative of Norway, he explained that a certain amount of pressure had been exerted with a view to allowing immigrant workers to vote in municipal elections, but that the granting of citizenship status to immigrant workers would severely affect various aspects of life. However, within a proposed European Economic Community programme, the nationals of all EEC member States would enjoy full rights.

(Mr. Fenge, Federal Republic of Germany)

25. Referring to the question put by the representative of Barbados about the payment of child benefits for foster children, he explained that such benefits were subject to specific conditions and to approval of the foster relationship by the Youth Office provided those conditions were met. With regard to marriage between disabled persons, he explained that every person was to free to marry, regardless of his or her physical or mental condition, but that there were regulations that applied to the matter.

26. Mr. SOFINSKY (Union of Soviet Socialist Republics), while not wishing to politicize the good atmosphere prevailing in the Working Group, objected to the mention in the report (p. 2 (3)) of Berlin (West). Such a reference was contrary to the provisions of the Quadripartite Agreement.

27. Mr. Fenge (Federal Republic of Germany) withdrew.

Finland (E/1980/6/Add.11)

28. At the invitation of the Chairman, Mr. Salmenperä (Finland) took a place at the table.

29. Mr. SALMENPERÄ (Finland), introducing his country's report, said that a successful housing policy was regarded as the starting-point for measures aimed at facilitating the establishment of families and improving the conditions of family life. Because of the rapid structural changes brought about by industrialization, there had been a serious shortage of urban housing after the Second World War. However, with the construction of 1,200,000 dwellings, Finland had succeeded in producing enough housing to meet its needs: there were now 100 rooms available for every 90 persons. The problem of the relatively high cost of housing, due primarily to Finland's climate, had been alleviated by Government loans to building companies as well as individuals, and special subsidies for the construction of rental housing. During 1981, Government loans would be granted for the building of approximately 25,000 dwellings. Moreover, to ensure that the cost of housing did not consume a disproportionate share of the family's total resources, special monthly housing allowances averaging 274 Finnish marks were paid to low-income families living in rental housing; in 1980, more than 100,000 families had received such allowances. A special State commission would soon complete work on legislation regulating, inter alia, minimum levels of housing and the ratio between different types of housing; the legal position with regard to the right to adequate housing would then be clarified.

30. Marriage in Finland was based on the free consent of the spouses, provided they were at least 18 years of age. The Marriage Act regulated the duties of spouses as well as the economic relationship between them. It also sought to ensure a stable economic basis for raising children and to provide for the future rights of children. Under recently adopted legislation, to which the report referred, children's rights no longer depended entirely on the marital status of their parents.

(Mr. Salmenperä, Finland)

31. Other measures designed to improve family welfare came within the following categories: tax policy, maternity and paternity protection, children's protection and, more generally, social assistance for those in need of special attention.

32. Tax incentives were not dealt with in the report, but he pointed out that some tax relief was granted during the first few years of marriage, and a special exemption was granted for every child under the age of 16. In addition, an estimated 6,000 marks per child was granted yearly for the various forms of child care and protection.

33. With regard to maternity and paternity protection, he stressed that Finland had more than 1,100 maternity centres which provided prenatal and postnatal counselling as well as regular medical examinations at no cost.

34. In addition to the social holiday services available under the Maternity Benefit Act (E/1980/6/Add.11, p. 5), pregnant women were entitled to 258 days of maternity leave and must take 24 days before the presumed date of confinement. The father could take the last 48 days of that leave in order to care for the child. The father also had the right to 12 days of leave immediately following the birth of the child. Statistics showed that about 13 per cent of all fathers had taken such leave. Either parent had the right to obtain compensation for any loss of salary from the Public Insurance Fund, which was financed jointly by employees and employers. Under many collective agreements, employers were also obliged to pay full salary during the first three months of maternity leave. He stressed that a woman could not be dismissed from her employment because of pregnancy or during maternity leave.

35. The question of the protection of children was fully discussed in the report, but there was also special legislation protecting young people in working life. The Act on the Protection of Young Workers prohibited work by any child who had not completed compulsory schooling or who was under the age of 15. Compulsory schooling was generally completed at the age of 16, but the approved age limit for work considered to be dangerous to the physical or mental health of young people was generally 18 for boys and girls, except for work on board ship, where boys could begin working at the age of 17. However, labour inspectors could prohibit the performance of any work considered to be detrimental to the physical or mental health of a young person. Employers were obliged to arrange regular medical examinations for all employees under the age of 18. In most cases, the work schedule of young people could not exceed 40 hours per week; daily overtime was not permitted and weekly overtime could not exceed 80 hours per year. Work could not begin before 6 a.m. and could not go on past 9 p.m. Any violation of those provisions was a punishable offence.

36. Commenting on the rights covered in article 11 of the Covenant, he noted with regard to food, that Finland had managed to ensure that basic consumer needs could be met from domestic production. However, many food products were still imported. The Food Act (p. 15) and related decrees ensured supervision of the production, preservation, importation, storing and selling of food with a view to safeguarding the health of consumers. The National Board of Health had issued regulations governing food additives and the appropriate storage of food, and food

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quality was constantly monitored. Under the Food Act, only approved additives could be used, and all foods containing such additives must be labelled accordingly. A long-term national strategy for agriculture and food was being formulated, taking into account public health considerations. A report on that undertaking was to be submitted shortly by a State commission under the Ministry of Agriculture and Forestry; its work was based on the recommendations of an expert committee appointed by the Ministry of Social Affairs and Health on the health aspects of nutrition.

37. Finland actively participated in the World Food Programme and contributed approximately 33 million marks a year in food aid, mainly grain.

38. There had been a sharp decline in infant mortality in Finland from 32 deaths for every 1,000 live births in the 1950s to 9 deaths for every 1,000 live births. The decline was largely the result of the work of maternity counselling centres and maternity hospitals. Maternity counselling centres also offered advice on infant care and made the necessary health care arrangements for children up to the age of seven; subsequently medical care was provided within the school system. Since the medical care offered by maternity counselling centres was preventive, the centres provided all the necessary inoculations. Preventive measures also included dental care, but the mental health of children was within the competence of special child guidance centres.

39. Environmental and industrial hygiene was supervised at the local level by municipal health authorities who were authorized under the Health Act to prohibit any activity involving health hazards. Municipal health boards had to be consulted before a building permit was issued for certain types of factories and enterprises. The Health Act also contained provisions governing the handling of potentially dangerous waste. For example, a municipal health board could prohibit the disposal of toxic wastes in a public dumping ground. Although communes bore primary responsibility for proper waste disposal, if such waste was difficult to handle, destroy or detoxify, the waste producer was responsible for its safe storage. The Council of State could also restrict the production, import or use of a product if, when used in manufacturing, it produced waste that could not be effectively detoxified. A State-level disposal plant for hazardous wastes was currently being planned.

40. The quality of household water was constantly monitored by the some 53 qualified laboratories of the National Board of Health. The industrial use of water was governed by a special permit issued by the National Board of Waters.

41. A new law on air protection, under which factories and enterprises had to furnish precise information about the substances they released into the air, had recently been submitted to Parliament. There was also a specific act designed to prevent the harmful effects of poisons on public health. Poisons used as pesticides or in the treatment of wood, textiles or paper were subject to special regulation.

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42. According to the Act on the Transport of Dangerous Substances, imported chemicals must be labelled in conformity with international regulations, and containers holding dangerous substances must also bear Finnish labels. The police had the authority to punish violations by prohibiting the transport of such substances.

43. The prevention of epidemic or endemic diseases was the responsibility of the health authorities. The incidence of tuberculosis, which had previously been a serious problem in Finland, had been reduced through effective x-ray screening and improved social conditions. The last case of tubercular meningitis in a child had been diagnosed in the early 1960s. Inoculations were administered widely in Finland and, as a result, there had been no cases of polio since 1965 and diphtheria and whooping cough were extremely rare. An epidemic of meningitis had occurred in 1974 and 1975, but it had been controlled through inoculations. Improvements in hygiene had also reduced the incidence of infectious hepatitis.

44. The new Act on Occupational Health Care Services had significantly improved preventive occupational health care, especially in small work places. Under the Act, employers were obliged to organize adequate health care services for their employees, and to take measures for surveillance of the place of work, screening for possible health hazards, guidance on health care, medical examinations and first aid. Special preventive measures applied to employment of handicapped persons or convalescents. The Public Pensions Institution covered 60 per cent of the approved costs of those measures. On a voluntary basis, employers could also include hospital care in their occupational health schemes. Occupational health care services were also provided on an equal basis to self-employed persons.

45. The Primary Health Care Act of 1972 regulated medical services at the communal level which provided comprehensive coverage of the entire population at mandatory health centres. There were 213 such centres in Finland, staffed by at least four doctors and 44 auxiliary workers. Almost all the health centres had hospital beds, which were used mainly for mild illnesses and chronic patients.

46. The health centres also provided maternity and infant care, school health services, physiotherapy, mental health services, in short, all medical care provided outside hospitals.

47. Hospital care was provided in some 700 hospitals throughout Finland, with a total of 74,000 beds, or approximately 15 beds for every 1,000 inhabitants. Most of the hospitals were operated by the communes, which received State subsidies for that purpose. Patients paid a small daily fee, which was absorbed by the commune for indigent patients.

48. Mr. MILAMBU (Zaire) asked whether the fact that housing was not mentioned as a basic right in Finnish legislation (E/1980/6/Add.11, p. 17) implied that the Government did not attach great importance to the question.

49. Mr. ABDUL-AZIZ (Libyan Arab Jamahiriya) asked whether the Maternity Benefit Act applied to temporary residents of Finland. If not, he wished to know what social security benefits were payable to working women residing temporarily in Finland.

50. Mrs. JIMENEZ BUTRAGUENO asked whether working women were eligible for benefits under the Communal Home Service Act. She noted the physically handicapped had not been mentioned in the section of the report describing that Act and asked whether any special assistance was provided to such persons with respect to transport or architectural alterations to their homes necessitated by their disabilities.

51. Mr. SHAMMA (Jordan) observed that, in general, the report did not contain much information regarding the situation of aliens or temporary residents.

52. He asked whether the authorities took any steps to ensure that the special financial subsidies paid to the parents of handicapped children under the Child Care Subsidy Act were used for the proper purpose.

53. Mr. KORDS (German Democratic Republic) requested additional information regarding facilities for the care of pre-school children. He wished to know, in particular, whether they were run by the State or private organizations and whether or not they were free.

54. Mr. BORCHARD (Federal Republic of Germany) said that the report seemed to indicate that the municipalities in Finland were responsible for providing social assistance to the needy. He wished to know what the central Government did when the financial resources of the municipalities were not adequate to the needs they had to meet.

55. Mr. SAMSON (International Labour Organisation) said that the ILO Committee of Experts had noted the provisions concerning maternal protection embodied not only in the Maternity Benefit Act but also in the Sickness Insurance Act, as amended in 1980, after the preparation of the Government's report. The Committee had noted the general obligation of employers to ensure the safety of workers, having regard, in particular, to their sex. Additional information was desirable on measures taken to ensure that the work assigned to women during pregnancy and after childbirth was compatible with their state of health. It would be seen from other sections of the ILO Committee's report (E/1981/41) that other countries had specifically prohibited the assignment of mothers to any work that might endanger the safety or health of mother or child and had also provided for the transfer of mothers to other, suitable work, where necessary.

56. In connexion with the Finnish Government's ratification of the ILO Minimum Age Convention, 1973, the Committee of Experts had requested information on measures regulating the work of children under the age of 15 outside an employment relationship. According to the information provided in the Finnish Government's report, such work might be done primarily on family agricultural holdings. The Committee also sought to determine the types of light work in which children under 15 years of age could be employed.

(Mr. Samson, ILO)

57. The Committee of Experts also considered that additional information would be desirable concerning measures to establish a minimum age for domestic service and additional measures for the protection of young persons employed in agriculture, forestry and timber-floating. The object of those protective measures was to ensure their fitness for such work, to restrict the manual transport of loads and to regulate their hours of work and rest.

58. Mr. SALMENPERÄ (Finland), replying to the question asked by the representative of Zaire said that, while there was at present no legislation in Finland which explicitly defined the right to housing as a basic right, a bill would be submitted to the Parliament that would include special provisions to that effect. The housing situation in Finland was quite good and it was for that reason that the legislative lacuna had not been perceived to be of great importance.

59. The Maternity Benefit Act, referred to by the representative of the Libyan Arab Jamahariya, did, in fact, cover only permanent residents. However, the amount of the benefit was not very large. The benefit was intended to ensure that expectant mothers had prenatal medical examinations and could obtain clothing and other articles necessary for the care of their children. Temporary residents were entitled to the same benefits under the sickness insurance scheme.

60. Turning to the questions asked by the representative of Spain, he indicated that housewives and all persons in need of special help in caring for their families were eligible for assistance under the Communal Home Services Act. However, the resources available for providing such services were limited and it was not possible to meet all requests. As to special assistance for the physically handicapped, the Government provided special tax exemptions to enable the handicapped to meet their special needs with regard to transport.

61. Replying to the question asked by the representative of Jordan, he noted that the Government took no special measures to monitor the use of child care subsidies and no particular problems had arisen in that connexion. In general, the rights of aliens were the same as those enjoyed by Finnish citizens, although there were some restrictions. However, the Social Assistance Act, for example, was fully applicable to aliens in Finland.

62. The representative of the German Democratic Republic had inquired about day-care centres. The problem was that the communal day-care centres could accommodate only half the chilren in need of day care, and many parents had to place their children in private day-care centres. The fees charged by the communal day-care centres were based on a sliding scale, with higher-income families paying rates comparable to fees charged in private centres. With large numbers of Finnish women working outside the home, the day-care problem had assumed considerable proportions but a target of 156,000 places in day-care centres had been set for 1988 to remedy the shortage.

63. The representative of the Federal Republic of Germany had inquired about Government subsidies to municipalities. As indicated in the report, such subsidies covered roughly 40 per cent of the real cost of social assistance

(Mr. Salmenperä, Finland)

provided by the municipalities. A bill was to be introduced in Parliament to increase the subsidies to 80 per cent of that cost so that poor municipalities would be better able to pay for the social assistance they were required to provide under law.

64. He drew the attention of the representative of ILO to the Occupational Health Care Services Act, to which he had referred in his introductory statement. Under that Act, employers were responsible for providing health care services for young and old workers alike. The Act, which had only recently entered into force, covered a number of concerns expressed by the ILO Committee of Experts. There was no specific list of light work suitable for young persons, but there was a schedule of heavy work which was prohibited to them. The age limit for domestic service was set at 15 years of age by a special law on domestic service. Employers in the forestry and agricultural sectors were responsible for providing special medical examinations for vulnerable groups, including adolescents and pregnant women.

65. The CHAIRMAN said that as there was no other delegation which wished to speak, the Working Group had completed its consideration of the report of Finland.

66. Mr. Salmenperä (Finland) withdrew.

REVIEW OF THE COMPOSITION, ORGANIZATION AND ADMINISTRATIVE ARRANGEMENTS OF THE SESSIONAL WORKING GROUP

67. The CHAIRMAN suggested that, in the interests of expediting the work of the session, a drafting group should be established, comprising Barbados, India, Norway, Senegal and the Soviet Union, to prepare a short conference room paper on the future composition of the Working Group. Participation in the drafting group would be open to any other interested delegations.

68. If there was no objection, he would take it that the Working Group wished to adopt his suggestion.

69. It was so decided.

The meeting rose at 12.50 p.m.